

OGC Has Reviewed

OGC 74-1153

8 July 1974

MEMORANDUM FOR: Associate Deputy Director for
Management and Services

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SUBJECT : [] Speech to the National
Classification Management Society

We have a few suggestions concerning the draft of the address
which has been prepared for [] to present to the National
Classification Management Society on []

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a. I think it might be well to delete the reference to protecting sources for 75 years, which appears on the reverse of page 2. Under the Executive Order, documents must be declassified in 30 years absent a determination by the Director to the contrary. While the Director of course may refuse to declassify some documents long after they have reached 30 years of age, the reference to a uniform 75-year period, which does not contemplate declassification decisions by the Director, likely would cause questions concerning the extent of our compliance with the Order.

b. I wonder if it is desirable to mention the name "Jack Anderson" on page 3. It might invoke some reaction by him and in any event gratuitously gives him publicity.

c. Should not the reference to Allen Dulles' The Craft of Intelligence on page 3 include some praise for that book?

d. I have some difficulty with the meaning and purpose of the last sentence beginning on page 3. Does it mean that the public has difficulty in obtaining authentic material on post-World War II methodology because CIA protects that information so thoroughly? This sentence seems to suggest that this heavy protection unduly denies such material to the public.

e. The paraphrasing of McBundy's testimony concerning covert activities abroad at the top of page 4, I believe, somewhat mis-states the McBundy comments. His testimony was that certain types of covert activities abroad are out of tune with national sentiment and should not exist, and other types should be governed by the Congress through its share of the war power.

f. With reference to the statement on the reverse of page 4 that the basic problem is whether a court could overrule the Director's decision to protect sources and methods perhaps is somewhat misleading. The major issue concerning judicial review in the area of sources and methods is whether the court may in effect substitute its decision for that of the Director or is limited to determining that the Director's decision in that area is or is not an arbitrary and capricious decision. Also, the language appears to state that a Director's decision that information must remain classified is one which he takes under his statutory responsibility. The fact is he makes his classification decisions under the authority of the Executive Order.


g. The language beginning "in part because the volume", and continuing through the succeeding paragraph on page 6, seems likely to invite declassification requests. Perhaps all of those lines should be omitted.

h. Also on page 6, I would delete the reference to the Inspector General report of the Bay of Pigs, not only because that matter is not yet settled, but also because it might invoke requests for Bay of Pigs documents or for Inspector General documents, or indeed both.

i. I wonder if it is desirable to refer to the former employee who testified against Mr. Colby's confirmation, at the bottom of the reverse of page 6.

j. Is it desirable to indicate, on the reverse of page 7, that the reason we are speeding up our action on mandatory review requests is prospective Congressional action?

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Acting Deputy General Counsel

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cc:

 C/ISAS

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Approved For Release 2003/08/04 : CIA-RDP84-00780R006100150024-5

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TRANSMITTAL SLIP		DATE 8 July 1974
TO: Associate Deputy Director for Management and Services		
ROOM NO. 7D-18	BUILDING Hdqs.	
REMARKS:		
FROM: Acting Deputy General Counsel		
ROOM NO. 7D-01	BUILDING Hdqs.	EXTENSION <input type="text"/>

FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)



SENDER:  CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
		SECRET	
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	Assistant to the Director 1F 04 Hqs	7/1	<i>ja</i>
2			
3	<i>DDMLS - BX-4</i>		
4			
5			
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks:			
<i>No abge lines</i>			
		ER	
FROM: NAME, ADDRESS AND PHONE NO.		DATE	
Associate Deputy Director for Management and Services, 7D 26		1 JUL 1974	
UNCLASSIFIED		CONFIDENTIAL	
		SECRET	

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DD/M&S 74-2432

1 JUL 1974

MEMORANDUM FOR: Assistant to the Director
General Counsel
Legislative Counsel

SUBJECT : Speech to the National Classification
Management Society

1. Attached herewith is a draft speech, "An Intelligence Agency in an Open Society," which [redacted] proposes to give to the National Classification Management Society on [redacted]

STAT

2. The Office of Security has interposed no objection from a strict security standpoint, but does suggest referral to OGC and OLC for information and review. The Management and Services Directorate would appreciate your comments or suggestions as soon as possible, most certainly by COB 9 July 1974.

STAT

[redacted]
John F. Blake
Associate Deputy Director
for
Management and Services

Att

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DD/M&S Registry
File Speeches

DD/M&S 74-2432

1 JUL 1974

MEMORANDUM FOR: Assistant to the Director
General Counsel
Legislative Counsel

SUBJECT : Speech to the National Classification
Management Society

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/s/ John F. Blake

John F. Blake
Associate Deputy Director
for
Management and Services

Att

STAT EO-DD/M&S: [redacted]:kmg (28 Jun 74)

Distribution:

- Orig - Ass't to the DCI w/att
- 1 - GC w/att
- 1 - LC w/att
- 1 - DD/M&S Subject w/att + DD/M&S 74-2410
- 1 - DD/M&S Chrono
- 1 - JFB Chrono

Att: Draft speech as stated

DD/M&S 74-2410: Memo dtd 27 Jun 74 to ADD/M&S fr D/Sec, subj: Proposed Presentation by [redacted] Before the National Classification Management Society

27 JUN 1974

MEMORANDUM FOR: Associate Deputy Director
for Management & Services

SUBJECT : Proposed Presentation by
[redacted] Before
the National Classification
Management Society

STAT

1. The attached paper entitled "An Intelligence Agency in an Open Society" has been reviewed by representatives of this Office and there is no security objection to the presentation in its present form.

2. In view of the comments on pending legislation and proposed methods of judicial review, it is suggested that [redacted] show those passages to the Offices of the General Counsel and the Legislative Counsel for their information and review.

STAT

[redacted]

Charles W. Kane
Director of Security

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Att

TAB

20 June

Mr. Blake -

brought in the
attached for any comments
you might have.

p.



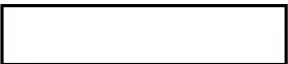
NATIONAL CLASSIFICATION MANAGEMENT SOCIETY



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AN INTELLIGENCE AGENCY IN AN OPEN SOCIETY

LADIES AND GENTLEMEN:

STAT FOR THOSE OF YOU WHOSE MEMORIES INCLUDE SUCH FILM STARS AS GAIL PATRICK, GAIL RUSSELL AND GAIL STORM AND WHO SAW THE NAME  AND CAME TO HEAR ONE OF CIA'S SEXY FEMALE SPIES SPEAK TO YOU ON THE QUESTION OF SECURITY PRACTICES AT CIA, I MUST APOLOGIZE FOR DISAPPOINTING YOU. BUT I SHOULD POINT OUT THAT YES, GAIL IS A BOY'S NAME SPELLED THE WAY IT IS. THE DIRECTOR, MR. COLBY, HAS ASKED ME TO EXTEND TO YOU HIS APPRECIATION FOR THE INVITATION TO MEET WITH YOU AND TO DESCRIBE SOME OF OUR PROBLEMS. I MIGHT BEGIN BY NOTING THAT OUR AGENCY HAS INTEGRATED THE IMPLEMENTATION OF CLASSIFICATION PRACTICES INTO THE RECORDS MANAGEMENT PROGRAM. OTHER AGENCIES HAVE SELECTED DIFFERENT OPTIONS. SOME HAVE INCLUDED IT IN PUBLIC RELATIONS PROGRAMS, OTHERS IN SECURITY PROGRAMS. TO DATE, OUR EXPERIENCE IS THAT IT OPERATES QUITE EFFECTIVELY IN THE RECORDS MANAGEMENT PROGRAM BUT COULD OPERATE EQUALLY EFFECTIVELY IN ANY OF THE OTHER PROGRAMS.

THE APPLICATION OF EXECUTIVE ORDER 11652 AND THE FREEDOM OF INFORMATION ACT TO THE CENTRAL INTELLIGENCE AGENCY POSTULATES A REAL CONTRADICTION IN DEFINITIONS AND PHILOSOPHIES. THE CIA REFLECTS THE SOCIETY OF WHICH IT IS A PART; AND TO THAT

EXTENT, IT IS THE MOST OPEN INTELLIGENCE AGENCY IN THE WORLD. BUT THERE REMAINS THE INHERENT CONFLICT BETWEEN AN OPEN SOCIETY, WHICH WANTS ALL OFFICIAL INFORMATION MADE AVAILABLE TO MEMBERS OF THAT SOCIETY, AND THE AIMS OF AN INTELLIGENCE ORGANIZATION ENGAGED IN THE COLLECTION AND PRODUCTION OF INTELLIGENCE DERIVED FROM SOURCES WHICH CANNOT BE IDENTIFIED. FOR THIS REASON, OUR APPLICATION OF THE EXECUTIVE ORDER TAKES PLACE IN A DICHOTOMY AND INVOLVES A CONSIDERABLE AMOUNT OF TRAUMA AS A RESULT OF OUR PREVIOUS HISTORY. THE DIRECTOR IS CHARGED BY THE NATIONAL SECURITY ACT OF 1947 WITH THE PROTECTION OF INTELLIGENCE SOURCES AND METHODS. THIS LEGAL REQUIREMENT IS CONSCIOUSLY AND UNCONSCIOUSLY INSTILLED IN EACH EMPLOYEE OF THE CENTRAL INTELLIGENCE AGENCY EVERY DAY OF HIS EMPLOYMENT. FOR THOSE OF US WHO HAVE BEEN WITH THE AGENCY FOR SOME TIME, PROTECTION OF SOURCES AND METHODS HAS THUS BECOME INSTINCTIVE. WE HAVE BEEN TRAINED TO ERR ON THE SIDE OF CAUTION, BECAUSE A MISTAKE THE OTHER WAY COULD HAVE DIRE EFFECTS. PERHAPS THE MOST RECOGNIZABLE EFFECT THAT COULD IMMEDIATELY RESULT IS THE LOSS OF A SOURCE; SOMEONE WILL NO LONGER PROVIDE US WITH INFORMATION. BUT THIS LOSS COULD GO EVEN FURTHER. RATHER THAN JUST THE INDIVIDUAL DECIDING HE WOULD NO LONGER PROVIDE US WITH INFORMATION, HE COULD BE INCARCERATED OR EVEN LOSE HIS LIFE. BUT THE LOSS OF THE PRIMARY SOURCE IS NOT THE MOST IMPORTANT CONSIDERATION; HAVING LOST A SOURCE OF INTELLIGENCE THROUGH AN ERROR IN JUDGMENT IN TERMS OF PROTECTING THAT SOURCE, WE THEN RUN THE RISK THAT WE NO LONGER WILL BE ABLE TO ATTRACT ADDITIONAL SOURCES. IN A SENSE, IN THE INTELLIGENCE WORLD, WE LOSE OUR CREDIBILITY;

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AND, HAVING LOST OUR CREDIBILITY, WE LOSE OUR CAPABILITY TO ATTRACT. SO IT IS QUITE FAIR TO SAY THAT THE APPLICATION OF EXECUTIVE ORDER 11652 GIVES US PSYCHOLOGICAL PROBLEMS. WE HAVE TO RE-THINK; WE NOW HAVE TO MAKE BETTER DECISIONS AS TO WHAT IS IMPORTANT IN SOURCE PROTECTION AND ^{WHAT} ISN'T. ALL THIS IS SALUTARY AND I THINK NECESSARY AND PERHAPS OVERDUE. THE GENERAL PHILOSOPHY WHICH WE NOW ARE TRYING TO INSTILL IN OUR EMPLOYEES IS THAT WE CAN BETTER PROTECT THOSE THINGS WHICH NEED PROTECTION IF WE LIMIT OUR PROTECTIVE MEASURES TO THOSE THINGS WHICH TRULY REQUIRE PROTECTION AND DO NOT APPLY THE SAME MEASURES WILLY-NILLY ACROSS THE BOARD. OTHER INTELLIGENCE SERVICES DO NOT OPERATE IN THE SAME ATMOSPHERE AS WE DO AND HENCE HAVE DIFFICULTY IN UNDERSTANDING THIS GOVERNMENT'S APPROACH TO THE PROTECTION OF CLASSIFIED MATTERS. WE CAN ALREADY SENSE AN EROSION OF CONFIDENCE ON THE PART OF SOME OF OUR FRIENDS. NOW, SPECIFICALLY, AS TO WHAT IS GOING ON, A LITTLE HISTORY MIGHT BE USEFUL TO SET THE STAGE FOR YOU. AS YOU CAN APPRECIATE, THE TRADITIONAL VIEW HAS SEEN OUR INTELLIGENCE SERVICES CLOAKED IN EXTREME SECRECY TAKEN TO THE LIMITS OF NOT REVEALING NAMES OF EMPLOYEES OR INFORMANTS FOR EVER AND EVER; INDEED, IF YOU LIVED IN A PURE WORLD WHICH WAS DOMINATED ONLY BY THE INFLUENCES AFFECTING INTELLIGENCE, THE IDEAL SITUATION WOULD BE THIS: A COMPLETE AND FINAL REMOVAL OF INTELLIGENCE-RELATED MATTERS IN TERMS OF INFORMANTS, AGENTS, AND EMPLOYEES FROM ANY ASPECT OF PUBLIC KNOWLEDGE. BUT WE DON'T LIVE IN THAT KIND OF A WORLD. WE DO, HOWEVER, CONCERN OURSELVES WITH PROTECTING THE SOURCES

AFTER THEY HAVE STOPPED BEING SOURCES. WE THINK THAT 75 YEARS AFTER THE TERMINATION OF THE SERVICES OF A SOURCE IS A FAIRLY REASONABLE AND PROBABLY REALISTIC PERIOD OF TIME. ONE OF THE QUESTIONS WE ARE ASKED IS, "WHY 75 YEARS?" THE ANSWER IS THAT FREQUENTLY THE ACTIVITIES OF THE FIRST GENERATION INFORMANT COULD CARRY OVER TO A SECOND GENERATION; AND IF WE DON'T PROTECT THAT FIRST GENERATION, WE MAY NOT BE ABLE TO ATTRACT THE SERVICES OF A SECOND GENERATION. OF COURSE, CLASSIFICATION AND SECURITY PROTECTION HAD NOT REALLY BEEN A MAJOR PROBLEM TO THE GOVERNMENT UNTIL WORLD WAR II AND I WOULD SAY IN THE SECOND WORLD WAR, THOUGH WE DID NEED TO PROTECT WAR PLANS, OPERATIONAL PLANS AND SO FORTH, WE STILL HAD NOT DEVELOPED A VERY COHERENT PHILOSOPHY OF CLASSIFICATION. THE SYSTEM THEN WAS MODELED AFTER THE ENGLISH SYSTEM. THE MOST IMPORTANT JUDGMENT EXERCISED SEEMED TO BE WHAT COLOR INK TO USE IN THE STAMP PAD. CERTAINLY IN THE PREDECESSOR ORGANIZATION TO CIA, THE OFFICE OF STRATEGIC SERVICES, THIS WAS TRUE. WE HAVE FOUND, FOR EXAMPLE, IN REVIEWING OSS DOCUMENTS FOR DECLASSIFICATION, THAT IN MANY CASES THE STAMP PUT ON THE DOCUMENT WHEN IT WAS RECEIVED IN THE OSS MAIL ROOM CLASSIFIED THE DOCUMENT CONFIDENTIAL WHEN IT PREVIOUSLY HAD BEEN UNCLASSIFIED. THAT IS TO SAY, THE RECEIPT ITSELF HAD A CLASSIFICATION BUILT RIGHT INTO IT. THIS TYPE OF GENERIC OVERCLASSIFICATION IS ONE OF THE REASONS FOR THE GENESIS OF THE EXECUTIVE ORDER ON CLASSIFICATION AND A VALID REASON FOR ATTEMPTING TO APPROVE ACCESS TO DOCUMENTS. I THINK THAT THIS OVERCLASSIFICATION, THIS CLASSIFICATION WITHOUT THOUGHT, PROBABLY HAS CONTRIBUTED IN ITS OWN WAY TO THE DEPLORABLE HABIT

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OF CERTAIN INDIVIDUALS WHO DECIDE ON POLITICAL GROUNDS THAT A PARTICULAR PIECE OF CLASSIFIED INFORMATION NO LONGER MERITS CLASSIFICATION, BECAUSE ITS RELEASE CAN PRODUCE A GIVEN EFFECT THAT THEY WISH--SO IT APPEARS IN JACK ANDERSON'S COLUMN OR IS LEAKED SOME OTHER WAY. IT IS TRUE THAT OCCASIONALLY SUCH LEAKS HAVE BEEN FOR PERSONAL GAIN, OR SIMPLY BECAUSE SOMEBODY WANTS TO CAPITALIZE ON HIS OWN PERSONAL EXPERIENCES AND BECOME THE FIRST TO DECLASSIFY OR PUBLISH SOMETHING PREVIOUSLY CLASSIFIED.

IN THE PAST FIFTY YEARS THERE HAS BEEN AN INCREASING AMOUNT OF QUITE ACCURATE INTELLIGENCE TRADECRAFT AND METHODOLOGY REVEALED IN FICTIONAL AND NON-FICTIONAL WORKS, USUALLY BY AUTHORS WHO HAD HAD EXPERIENCE IN EITHER WARTIME OR PEACETIME INTELLIGENCE WORK. THIS TREND WAS STARTED AFTER WORLD WAR I WITH SOMERSET MAUGHAM'S ASHENDEN AND WAS BASED ON THE AUTHOR'S PERSONAL EXPERIENCE AS AN INTELLIGENCE OFFICER. IT DESCRIBES THE FRUSTRATIONS AND FAILURES ENCOUNTERED IN SUCH WORK; IF SOMETHING CAN GO WRONG, WHETHER FROM HUMAN WEAKNESS OR STROKE OF FATE, IT USUALLY DOES. IN A MUCH DIFFERENT TONE, IAN FLEMING'S JAMES BOND TENDS TO GLAMORIZE INTELLIGENCE WORK IN THE POST-WORLD WAR II ERA, THOUGH HIS EXPLOITS DO CONTAIN A LEAVEN OF TRADECRAFT IN REALISTIC DETAIL. JOHN LECARRE'S "THE SPY WHO CAME IN FROM THE COLD" IS A FINE EXAMPLE OF THE GRUBBY LIFE OF AN INTELLIGENCE AGENT, PLAYED LIKE A PUPPET BY THOSE WHO HIRED HIM. IN THE NON-FICTION FIELD I SHOULD MENTION ALLEN DULLES' "THE CRAFT OF INTELLIGENCE." THERE ARE ALSO GOOD BOOKS ON CRYPTOGRAPHY AND CODE-BREAKING, BUT IT IS BECOMING INCREASINGLY

DIFFICULT TO GET MUCH AUTHENTIC MATERIAL ON POST-WORLD WAR II METHODOLOGY, WITH ITS EXTENSIVE USE OF COMPUTERS, AS SUCH INFORMATION REMAINS UNDER THE BEST PROTECTION WE CAN GIVE.

I HAVE COVERED THIS BACKGROUND MATERIAL, WHICH I'M SURE IS FAMILIAR TO MOST OF YOU, IN ORDER TO LEAD UP TO THE QUESTION OF WHAT WE IN THE CIA ARE TRYING TO PROTECT. IT INCLUDES: (A) THE NAMES OF SOME OF OUR EMPLOYEES--THOSE WORKING OVERSEAS (EVEN IF DISCLOSED TO HOST GOVERNMENTS) AND THOSE IN LINE FOR SUCH ASSIGNMENTS IN THE FUTURE; (B) THE NAMES OF ALL OUR AGENTS--FOR OBVIOUS REASONS; (C) THE CURRENT METHODS WE ARE USING TO OBTAIN INTELLIGENCE--MAYBE YOU'VE READ ABOUT THEM IN JAMES BOND, BUT PERHAPS THEY AREN'T IN ANYTHING YOU COULD HAVE READ; (D) ALL INFORMATION DEALING WITH CODE-MAKING AND CODE-BREAKING; (E) THE DETAILS OF THE PROCESSING AND ANALYSIS OF INTELLIGENCE INFORMATION--THE SOVIET'S WOULD LIKE THIS; AND (F) THE FINISHED INTELLIGENCE PUBLICATIONS--BECAUSE THEY REVEAL WHAT HAS BEEN PROVIDED TO THE DECISION MAKERS IN OUR GOVERNMENT. THIS LIST IS BY NO MEANS COMPLETE, BUT IT DOES INCLUDE THOSE OF ANY SIGNIFICANCE.

PERHAPS YOU HAVE NOT HAD THE OPPORTUNITY TO READ SOME OF THE RECENT TESTIMONY GIVEN BEFORE THE SENATE SUBCOMMITTEE ON GOVERNMENT OPERATIONS. McGEORGE BUNDY, FORMERLY NATIONAL SECURITY ADVISOR TO PRESIDENT KENNEDY, TESTIFIED ON MAY 22, 1972, TO THE SUBCOMMITTEE WHICH WAS INQUIRING INTO CLASSIFICATION PRACTICES IN THE GOVERNMENT. MR. BUNDY IDENTIFIED WHAT HE CALLED "REAL SECRETS" AND DIVIDED THESE INTO SIX CLASSES: (1) DEFENSE INFORMATION, SUCH AS THE DETAILS OF MILITARY CONTINGENCY PLANNING AND THE DESIGN OF NUCLEAR WEAPONS SYSTEMS; (2) CURRENT DIPLOMATIC

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NEGOTIATIONS; (3) COVERT ACTIVITY ABROAD (INCIDENTALLY, HE SUGGESTS THAT, SINCE SUCH ACTIVITY IS OUT OF TUNE WITH NATIONAL SENTIMENT, IT EITHER SHOULD NOT EXIST OR SHOULD BE GOVERNED BY THE CONGRESS THROUGH ITS SHARE OF THE WAR POWER); (4) THE COVERT COLLECTION OF INTELLIGENCE--INCLUDING SECRET AGENTS, INTERCEPTION OF ELECTRONIC TRANSMISSIONS, AND SPACE VEHICLES, THE REVELATION OF ANY OF WHICH ENABLES THE ENEMY TO TAKE COUNTER-MEASURES; (5) MATERIAL WHOSE CAPACITY FOR INTERNATIONAL EMBARRASSMENT OUTWEIGHS ITS VALUES FOR ENLIGHTENMENT OF THE PUBLIC--HE CITES CONFIDENTIAL ASSESSMENTS OF FOREIGN LEADERS COMING TO MEET THE PRESIDENT; AND (6) LEGITIMATE SECRETS RELATING TO THE PROCESS BY WHICH A PRESIDENT MAKES A DECISION.

AS YOU KNOW, WHEN THE CIA WAS ESTABLISHED UNDER THE NATIONAL SECURITY ACT OF 1947, THE DIRECTOR WAS GIVEN STATUTORY AUTHORITY TO PROTECT INTELLIGENCE METHODS AND SOURCES. THIS ACT, AND THE SUCCESSIVE EXECUTIVE ORDERS ON CLASSIFICATION, HAVE BEEN THE FOUNDATION FOR OUR POLICIES IN PROTECTING NATIONAL SECURITY INFORMATION, WHETHER ORIGINATED BY US OR RECEIVED FROM OTHER GOVERNMENT COMPONENTS OR FOREIGN SOURCES. ADDITIONAL AUTHORITY TO PROTECT CERTAIN INFORMATION, PARTICULARLY THAT RELATING TO NAMES AND NUMBERS OF EMPLOYEES, WAS INCLUDED IN THE CIA ACT OF 1949. THESE ACTS HAVE IN NO WAY BEEN SUPERSEDED BY THE FREEDOM OF INFORMATION ACT OF 1966. HOWEVER, YOU SHOULD BE AWARE THAT THERE IS A VERY STRONG POSSIBILITY THAT THIS ACT WILL BE AMENDED SIGNIFICANTLY IN THE NEAR FUTURE, AND BOTH VERSIONS PASSED BY THE HOUSE (IN MARCH) AND THE SENATE (IN MAY) CONTAIN SECTIONS WHICH APPEAR IN POTENTIAL CONFLICT WITH THE AGENCY'S

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STATUTORY AUTHORITIES MENTIONED A MOMENT AGO. THE MOST IMPORTANT CHANGE LIES IN THE PROVISION FOR IN CAMERA REVIEW BY A COURT IN CASES WHERE THE REASONABLENESS OF THE CLASSIFICATION OF A DOCUMENT OR MATERIAL IS CHALLENGED. LEAVING ASIDE THE QUESTION OF HOW TO PROTECT SENSITIVE INTELLIGENCE INFORMATION WHILE IN THE POSSESSION OF A COURT, THE BASIC PROBLEM IS WHETHER A COURT COULD OVERRULE THE DIRECTOR'S DECISION, TAKEN UNDER HIS STATUTORY RESPONSIBILITY, THAT CERTAIN INFORMATION REQUIRED CLASSIFICATION.

LET ME NOW RETURN TO 1 JUNE 1972, WHEN EXECUTIVE ORDER 11652 BECAME EFFECTIVE. AS YOU REALIZE, THE ORDER REQUIRED AN UPDATE OF OUR PROCEDURES IN SEVERAL AREAS. IT CALLED FOR: (A) A SHARP RESTRICTION IN THE NUMBER OF AUTHORIZED CLASSIFIERS; (B) THE REFINING OF THE CRITERIA FOR MATERIALS TO BE CLASSIFIED, AND ACCOUNTABILITY OF CLASSIFIERS FOR THEIR ACTIONS; (C) THE IDENTIFICATION OF CLASSIFIERS ON ANY MATERIALS CLASSIFIED; (D) THE IMPLEMENTATION OF THE GENERAL DECLASSIFICATION SCHEDULE, WHICH PERMITTED MUCH TOO BRIEF PERIODS OF PROTECTION FOR MOST INTELLIGENCE MATERIALS; (E) THE EXEMPTION OF MATERIAL, IF NECESSARY, FROM THE PROVISIONS OF THE GDS. BUT THERE WAS A QUESTION AS TO WHETHER ALL OF THE AGENCY'S ACTIVITIES COULD BE CONSIDERED AS FALLING UNDER ONE OR MORE OF THE FOUR EXEMPTIONS; (F) THE DEVELOPMENT OF PROCEDURES TO IMPLEMENT THE PROVISIONS FOR MANDATORY REVIEW OF CLASSIFIED MATERIAL, LEAVING THE AGENCY WITH THE QUESTION OF WHAT MANPOWER WOULD BE NEEDED; (G) THE AUTOMATIC REVIEW OF CLASSIFIED MATERIAL 30 YEARS OLD, WITH DECLASSIFICATION OF ALL SUCH MATERIAL EXCEPT THAT CONTINUED UNDER CLASSIFICATION BY DECISION OF THE DIRECTOR; (H) THE SYSTEMATIC REVIEW OF CLASSIFIED MATERIAL WITH THE VIEW OF DOWNGRADING OR DECLASSIFYING

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PIECE OF INFORMATION MAY NOT REQUIRE PROTECTION, BUT HE IS CONCERNED WITH THE LIKELIHOOD THAT AN ACCUMULATION OF SEPARATE BITS OF INTELLIGENCE WILL LEAD BACK TO THE SOURCE. HENCE, HIS TRAINING CONDITIONS HIM TO THINK OF A CONTINUING NEED TO PROTECT INFORMATION NOT ONLY FROM DISCLOSURE TO THE PUBLIC BUT EVEN FROM HIS COLLEAGUES WHO DO NOT NEED TO KNOW.

YOU CAN PERHAPS APPRECIATE, THEN, THE TRAUMATIC EFFECT OF THE DISCLOSURE PROVISIONS OF THE EXECUTIVE ORDER ON SUCH PROFESSIONAL INTELLIGENCE OFFICERS. NOT ONLY WAS HE ASKED TO REVIEW INTELLIGENCE DOCUMENTS FOR POSSIBLE DISCLOSURE IN RESPONSE TO MANDATORY REQUESTS; BUT, ON THE BASIC QUESTION OF WHAT LEVEL OF CLASSIFICATION, IF ANY, A DOCUMENT REQUIRED, HE WAS REQUIRED, WHEN IN DOUBT, TO USE THE LESS RESTRICTIVE TREATMENT.

HOWEVER, WE HAVE NOW LIVED WITH THE ORDER FOR MORE THAN TWO YEARS WITHOUT THINGS GOING TO POT. THIS IS IN PART BECAUSE OF THE HELPFUL AND COOPERATIVE ATTITUDE TAKEN BY THE ICRC ON SEVERAL PROCEDURAL MATTERS. IT IS DUE MUCH MORE TO MOST AGENCY PEOPLE HAVING LEARNED TO FOLLOW THE SPIRIT OF THE NEW SYSTEM, THOUGH SOMETIMES RELUCTANTLY; HAVING LEARNED THE REFINED BASIS FOR CLASSIFICATION; AND NOW THINKING BEFORE ROUTINELY STAMPING A CLASSIFICATION ON A DOCUMENT.

IN MONITORING OUR PROGRESS IN COMPLYING WITH THE ORDER, WE FIND WE HAVE ACCOMPLISHED SEVERAL THINGS, SUCH AS: (A) GREATLY REDUCING THE NUMBER OF CLASSIFIERS (AND THIS IS STILL AN ON-GOING PROCESS); (B) SIGNIFICANTLY REDUCING THE CURRENT AMOUNT OF CLASSIFIED MATERIALS BEING PRODUCED, PARTICULARLY AS CLASSIFIERS INCREASINGLY REALIZE THAT LITTLE ADMINISTRATIVE OR

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IT AS SOON AS POSSIBLE--AND AGAIN THERE WAS THE PROBLEM OF MANPOWER; (I) THE POTENTIAL PROBLEM POSED BY THE APPARENT AUTHORITY OF THE INTERAGENCY CLASSIFICATION REVIEW COMMITTEE TO OVERRULE THE DIRECTOR IN APPEALS FROM DENIALS OF MANDATORY REVIEW REQUESTS; (J) ACCESS TO CLASSIFIED DOCUMENTS BY APPROVED HISTORICAL RESEARCHERS (NON-GOVERNMENT); AND (K) THE REQUIREMENT TO PROVIDE QUARTERLY LISTS OF AUTHORIZED CLASSIFIERS TO THE ICRC.

PERHAPS I SHOULD EMPHASIZE HERE HOW THESE REQUIREMENTS CONFLICTED WITH THE TRAINING AND PRACTICES ACQUIRED OVER THE YEARS BY OUR PROFESSIONAL INTELLIGENCE CASE OFFICERS AND ANALYSTS. IN THE INTELLIGENCE FIELD THERE ARE TWO ASPECTS OF INFORMATION ITSELF, AND THE MEANS BY WHICH IT WAS OBTAINED. IT IS OBVIOUS THAT IF THE LEADERS OF A LESS THAN FRIENDLY FOREIGN COUNTRY KNOW WE HAVE LEARNED OF THEIR DEFENSE MECHANISMS, THEY WILL MODIFY OR COMPLETELY CHANGE THEM. AND, IF THEY KNOW WE HAVE BEEN ABLE TO INTERCEPT AND READ THEIR COMMUNICATIONS, THEY WILL NO LONGER USE THOSE CHANNELS TO TRANSMIT INFORMATION HELPFUL TO US, OR THEY MAY ATTEMPT TO MISLEAD US WITH MIS-INFORMATION.

BUT, MORE IMPORTANTLY, DISCLOSURE OF THE FACT THAT WE HAVE CERTAIN PIECES OF INFORMATION COULD SERIOUSLY ENDANGER THE AGENT OR AGENTS WHO MADE THEM AVAILABLE TO US, RESULTING IN THE TERMINATION OF ANY MORE INFORMATION FROM THAT CHANNEL, WHETHER BECAUSE OF THE REMOVAL OF THE AGENT OR BECAUSE THE AGENT FEARS THE CONSEQUENCES OF HIS PASSING FURTHER INTELLIGENCE MATERIAL TO US.

THE INTELLIGENCE CASE OFFICER REALIZES THAT A PARTICULAR

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■ SUPPORT MATERIAL NEEDS PROTECTION; (C) BEGINNING THE REVIEW OF 30-YEAR-OLD MATERIAL (AS YOU KNOW, WE ARE THE SUCCESSORS TO THE OSS AND CIG); (D) KEEPING ABREAST OF THE REQUESTS FOR MANDATORY REVIEW, IN PART BECAUSE THE VOLUME OF SUCH REQUESTS HAS BEEN FAR BELOW THAT WHICH WE INITIALLY EXPECTED.

I WILL EXPAND A BIT ON THIS MATTER OF HANDLING MANDATORY REVIEW REQUESTS, FOR THERE ARE POINTS HERE WHICH WILL LIKELY BE OF INTEREST TO YOU. WE WERE INITIALLY APPREHENSIVE THAT WE WOULD BE SWAMPED BY REQUESTS FROM THE NEWS MEDIA AND PRIVATE INDIVIDUALS, ESPECIALLY HISTORICAL RESEARCHERS. YET TWO YEARS AFTER THE EXECUTIVE ORDER WENT INTO EFFECT, WE HAVE RECEIVED ONLY REQUESTS.

AMONG THE FIRST OF THESE WAS THE REQUEST FROM ONE OF THE MAJOR NEWS SERVICES FOR RECORDS RELATED TO THE GUATEMALAN REVOLUTION OF 1954, IN WHICH THE AGENCY IS ALLEGED TO HAVE PLAYED A SIGNIFICANT ROLE. IT WAS QUITE A TASK TO IDENTIFY AND RETRIEVE THE RELEVANT DOCUMENTS; AND AFTER A CAREFUL REVIEW, IT WAS DETERMINED THAT MOST OF THEM COULD NOT BE DECLASSIFIED BECAUSE SOURCES OF INFORMATION WERE IDENTIFIED. HOWEVER, IT WAS POSSIBLE TO SANITIZE MANY OF THESE PAPERS AND THUS MEET THE LARGER PART OF THE REQUESTER'S NEEDS.

A NEWS CORRESPONDENT FOR A SOUTHWESTERN NEWSPAPER HAS BEEN TRYING TO OBTAIN DOCUMENTS ON THE BAY OF PIGS FIASCO, ESPECIALLY A POST-MORTEM REPORT PREPARED BY OUR INSPECTOR GENERAL. THE REQUESTER APPEALED OUR INITIAL DENIAL AND THE CASE WENT TO OUR INFORMATION REVIEW COMMITTEE, WHICH LED TO CONSIDERATION

OF SANITIZATION. IT WAS DETERMINED AFTER A DETAILED REVIEW THAT OVER 90 PERCENT OF THE REPORT WOULD HAVE TO BE EXCISED. WE ALSO CONSIDER ANYTHING IN THE NATURE OF A REPORT BY THE INSPECTOR GENERAL MAY BE KEPT FROM DISCLOSURE UNDER EXEMPTION (B)(5) OF THE FREEDOM OF INFORMATION ACT; AND, TO DATE, WE HAVE NOT RELEASED THE REPORT.

WE HAVE HAD AN OFT-REPEATED REQUEST FROM A WELL-KNOWN HISTORIAN AND ACADEMICIAN, MAINLY FOR DOCUMENTS RELATING TO THE CUBAN MISSILE CRISIS. THIS REQUEST WAS MADE INITIALLY UNDER THE FOIA, BUT SINCE CLASSIFIED DOCUMENTS WERE INVOLVED, IT HAS BEEN PROCESSED UNDER THE PROVISIONS OF THE EXECUTIVE ORDER. IT WAS POINTED OUT TO THE PROFESSOR THAT HE APPEARED TO BE ELIGIBLE FOR APPROVAL AS A HISTORICAL RESEARCHER, BUT HE DECLINED TO TAKE THIS ROUTE, PREFERRING TO USE ONLY DECLASSIFIED SOURCE MATERIALS. IT HAS BEEN POSSIBLE TO DECLASSIFY SOME OF THE DOCUMENTS HE WANTS, BUT OTHERS CAN BE RELEASED ONLY IN SANITIZED VERSIONS, IF AT ALL, AND HISTORIANS UNDERSTANDABLY DON'T LIKE SANITIZED DOCUMENTS.

OCCASIONALLY WE HAVE HAD REQUESTS FOR DECLASSIFICATION FROM FORMER EMPLOYEES (INCLUDING THE OSS). WE HAVE DECLASSIFIED A CONSIDERABLE NUMBER OF DOCUMENTS DEALING WITH OSS OPERATIONS IN VIETNAM (THEN FRENCH INDOCHINA) FOR A FORMER OSS OFFICER WHO SERVED THERE IN THE LATTER PART OF 1945 AND WHO KNEW HO CHI MINH. WE HAVE ALSO DECLASSIFIED DOCUMENTS FOR A FORMER AGENCY EMPLOYEE WHO WAS UNHAPPY WITH THE GOVERNMENT'S VIETNAM POLICY AND WHO TESTIFIED BEFORE THE ARMED FORCES SUBCOMMITTEE AGAINST THE CONFIRMATION OF MR. COLBY AS DCI. AND WE HAVE BEEN

WILL HAVE INCREASING NUMBERS OF DOCUMENTS ELIGIBLE FOR REVIEW, AND WE'LL HAVE TO GEAR UP TO HANDLE THAT WORK LOAD.

AS A RESULT OF THE PROSPECTIVE CONGRESSIONAL ACTION TO AMEND THE FOIA, WE HAVE TAKEN STEPS TO REDUCE THE AVERAGE TIME OF RESPONDING TO MANDATORY REVIEW REQUESTS. YOUR PROBLEMS IN THIS AREA MAY BE SOMEWHAT DIFFERENT FROM OURS FOR WE MUST FIRST SEARCH OUT THE DOCUMENTS AND THEN FIND BUSY OPERATIONS PEOPLE TO REVIEW THEM IN TERMS OF CURRENT CLASSIFICATION CRITERIA. BECAUSE OF OUR MANY INTERNAL REORGANIZATIONS OVER THE YEARS, IT IS OFTEN NOT TOO CLEAR WHICH COMPONENT SHOULD MAKE THE REVIEW, AND PERHAPS TWO OR THREE DIFFERENT OFFICES SHOULD TAKE A LOOK. ALL THIS TAKES TIME; BUT, NEEDLESS TO SAY, WE ARE DOING OUR BEST TO BE RESPONSIVE TO THE ANTICIPATED NEW REQUIREMENTS, BOTH FOR REQUESTS AND APPEALS OF DENIALS.

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ABLE TO DECLASSIFY DOCUMENTS ON OSS OPERATIONS IN YUGOSLAVIA FOR A FORMER OSS MAN WHO SERVED THERE AND IS WRITING A BOOK.

THERE ARE STILL SEVERAL CHALLENGES FOR THE AGENCY TO MEET IN IMPLEMENTING VARIOUS FACETS OF THE CLASSIFICATION POLICIES MANDATED BY THE EXECUTIVE ORDER, AND SOME OF THESE MAY WELL BE THE SAME AS YOU ARE FACING. FOR EXAMPLE, YOU PROBABLY SEE OCCASIONAL DOCUMENTS WHICH ARE OBVIOUSLY OVERCLASSIFIED OR ARE EXEMPTED FOR NO APPARENT REASON. IT'S CLEAR THAT SOMEONE HASN'T GOTTEN THE WORD--OR HAS UNTHINKINGLY USED FORMER PROCEDURES--OR SIGNED WHAT HIS SECRETARY PREPARED WITHOUT REVIEWING IT FOR THE APPROPRIATENESS OF THE CLASSIFICATION. THERE IS A CONTINUING NEED FOR BOTH INDOCTRINATION OF NEWLY AUTHORIZED CLASSIFIERS AND RE-INDOCTRINATION PERIODICALLY OF THE "OLD HANDS." WE ARE STILL WORKING TO DEVELOP EFFECTIVE MEANS TO ACCOMPLISH THIS.

A DIFFERENT PROBLEM WE FACE IS IN GETTING TOGETHER THE NECESSARY RESOURCES TO GET CURRENT ON THE REVIEW OF CLASSIFIED MATERIAL WHICH IS 30 YEARS OLD OR OLDER. WITH RARE EXCEPTIONS, ALL OSS DOCUMENTS STILL ON FILE ARE CLASSIFIED, AND THE REVIEW OF THESE HAS BEEN A CHALLENGE IN TERMS OF MAKING QUALIFIED PERSONNEL AVAILABLE TO DO THE JOB. IN FACT, AS A PRACTICAL MATTER, WE RE-HIRED THREE RETIREES TO WORK ON THE OSS RECORDS PREVIOUSLY HELD BY THE DEPARTMENT OF STATE AND TURNED OVER TO THE NATIONAL ARCHIVES SOME TIME BACK, BUT THIS IS ONLY A PART OF THE PROBLEM. FROM 1977 ON, WHEN WE PASS THE 30TH ANNIVERSARY OF THE ESTABLISHMENT OF THE AGENCY, WE

28 June 1974

NOTE FOR: Mr. Blake

1. I very briefly mentioned the [] speech to Mr. Brownman, who did not review the manuscript, but did agree with the position taken by D/Sec. In view of the possibility that this might generate some publicity, I also took the liberty of including Angus Thuermer on the distribution.

2. I don't know if you have had time to review the proposed presentation, but it seems there are several statements that the news media might focus on and/or misconstrue, even if accurate:

- a. E.O. 11652 gives us "psychological problems."
- b. We think "75 years after the termination of a source" is a reasonable time re declassification.
- c. Certain individuals decide on "political grounds" to declassify or leak the information to columnists.
- d. Reference to the former Agency employee who opposed the "confirmation" of Mr. Colby.
- e. Reference to declassification of the "IG" report on the Bay of Pigs.


LJD

Atts: DD/M&S 74-2432, DD/M&S 74-2410